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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/584,808
Filing Date: May 31, 2000
Appellant(s): BEADLE ET AL.

Eustace P. Isidore
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 3, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that all claims stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,774,660	Brendel et al.	06-1998
6,397,387	Rosin et al.	05-2002

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-9, 10-20, and 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,774,660 issued to Brendel et al. in view of USPN 6,397,387 issued to Rosin et al.

Regarding claim 1, Brendel et al. teach a method for providing a client with a connection to a network, said method comprising the steps of:

selecting a connection type (col. 2, lines 18-22); and

in response to a receipt of a connection request, dynamically connecting said client to a selected server of said network based on a determination of an effective route for completing said connection request, given said selected connection type (abstract; figures 6, 8 and 19; col. 6, lines 20-58; col. 11, lines 4-50).

However, Brendel et al. fail to explicitly teach selecting at the client a connection type from among a plurality of connection types including a plurality of independent servers, a plurality of connection media for connection to at least one of said plurality of independent servers, and a server medium combination. Rosin et al. teach selecting a connection type from a plurality of connection types including a plurality of independent servers (col. 1, lines 28-29; lines 40-48), a plurality of connection media for connection to at least one of said plurality of independent servers (figure 12; abstract; col. 3, lines 21-31; col. 4, lines 57-63; col. 14, line 52 to col. 15, line 8; col. 15, lines 41-63), and a server medium combination (figure 12; abstract; col. 3, lines 21-31; col. 15, lines 41-63). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Rosin into the teaching of Brendel in order to determine the most efficient delivery of data through all available bandwidth connections, thus maximizing the available bandwidth capacities to provide a more coordinated and faster internet experience (col. 3, lines 20-31; col. 15, lines 43-48).

Regarding claim 2, Brendel et al. teach the method of Claim 1, wherein said selecting step includes the step of providing a graphical user interface for each connection type (col. 1, lines 53-63; col. 2, lines 18-22). However, Brendel does not explicitly teach the GUI having selectable options for each of said plurality of connection types, in response to a user request to configure said client to connect via one or more of said plurality of connection types. Rosin teaches a GUI having selectable options for each of said plurality of connection types (figure 8). At the time the invention was made, one of ordinary skill in the art would have been motivated to employ a GUI having selectable options for each of said plurality of connection types in order

allow user to connect to the internet using all available connection types, thus maximizing the available bandwidth capacities to provide a more coordinated and faster internet experience (col. 3, lines 20-31; col. 15, lines 43-48).

Regarding claim 3, Brendel et al. teach the method of Claim 2, wherein said selecting step includes the steps of:

evaluating historical data about connection types associated with said client (col. 2, lines 29-35; col. 3, lines 40-61); and

selecting an effective server connection based on a connection history of said client and present connection conditions (col. 2, lines 29-35; col. 3, lines 40-61).

Regarding claim 4, Brendel et al. teach the method of Claim 3, wherein said evaluating step includes the step of accessing said connection history from a table of server connection parameters, which are utilized a to determine said effective connection route (col. 2, lines 18-35; col. 3, lines 7-30).

Regarding claim 5, Brendel et al. teach the method of Claim 4, wherein said dynamically connecting step includes the step of evaluating said server connection parameters for each of a plurality of servers to determine said effective connection route relative to all other possible routes within said connection, type (abstract; figure 7; col. 6, lines 20-58; col. 11, lines 4-50).

Regarding claim 6, Brendel et al. teach the method of Claim 5, wherein said dynamically connecting step further includes the step of encoding a routing information about said effective connection route in a connection protocol of said client (col. 3, lines 7-30).

Regarding claim 7, Brendel et al. teach the method of Claim 6, wherein said encoding step includes the step of including a call-back mechanism in said connection protocol, wherein relevant connection information, including one or more of said connection parameters, is returned to said client for updating said table (col. 2, lines 10-52).

Regarding claim 8, Brendel et al. fail to teach teach the method of Claim 7, wherein said client is equipped with multiple connection media and said dynamically connecting step includes the step of selecting one of said multiple connection media to complete said connection request. Rosin et al. teach a client being equipped with multiple connection media and a step of dynamically communicating the client with a server by selecting one of said multiple connection media (figure 12; abstract; col. 3, lines 21-25; col. 15, lines 41-63). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Rosin into the teaching of Brendel in order to determine the most efficient delivery of data through all available bandwidth connections (col. 15, lines 43-48).

Regarding claim 10, Brendel et al. teach a computer program product for utilization within a client for connecting to servers of a network, said program product comprising: a

computer readable medium; and program code on said computer readable medium, which provides:

an interface for receiving user input and connection requests (col. 2, lines 18-22); and

a connection utility for dynamically connecting said client to one of said servers in response to a connection request, wherein said one of said servers is selected based on a determination of an effective route for completing said connection request (abstract; figure 7; col. 6, lines 20-58; col. 11, lines 4-50).

Regarding claim 11, Brendel et al. teach the computer program product of claim 10, wherein program code for said interface further comprises program code for a connection selection interface for receiving user selection of a desired connection type, wherein said desired connection types including a default server connection, a changeable default server connection with a suggestion function for providing an optimal server connection during a later connection, and an effective server connection based on a connection history of said client (col. 2, lines 18-35).

Regarding claim 12, Brendel et al. teach the computer program product of claim 11, wherein said program code for said connection utility includes:

program code for managing a connectivity table utilized to record a plurality of connection parameters for each of said servers (col. 2, lines 18-35; col. 3, lines 7-30);

program code for determining said effective route based on said connection parameters (figure 7; col. 6, lines 20-58); col. 11, lines 4-50);

program code for encoding a connection protocol with said effective route (col. 3, lines 7-30); and

program code for appending a call-back to said connection protocol, whereby connection parameters from a current connection is returned to update said connectivity table (col. 2, lines 10-52).

Claims 13–20 have similar limitations as those in claims 1-8, respectively, therefore are rejected under the same rationale.

Claims 22-25 have similar limitations as those in claims 1-4, respectively, therefore are rejected under the same rationale.

Claims 26-28 have similar limitations as those in claims 6-8, respectively, therefore are rejected under the same rationale.

(11) Response to Argument

Appellant concedes that Brendel does not suggest and is not concerned with (i) the mechanism (connection type) or process for selecting among connection types or (ii) connecting a client to the internet (network) via a server and medium. The Patent Office respectfully submits that these limitations are taught in the *combination* of Brendel and Rosin.

As cited above, Brendel teaches selecting a universal resource locator (URL) by which to initiate a client session with a server. Figures 6, 8, and 19 show that the content of the specified

URL may be located in different servers. By selecting a URL, the client is able to connect to one of the plurality of the servers. Since Appellant's claimed invention does not specifically refer to the selectable servers as "network connection" servers, "selecting a connection type" has been given its broadest interpretation, in this case, the same as selecting a URL.

Rosin teaches the mechanism for selecting a connection type from among a plurality of connection types (col. 1, lines 28-29; lines 40-48), connection media, and server-medium combination (as cited in figure 12; abstract; col. 3, lines 21-31; col. 4, lines 57-63; col. 14, line 52 to col. 15, line 8; col. 15, lines 41-63).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Appellant concedes that Rosin fails to teach or suggest a client system with a GUI that allows the user to select which connection among several available connections (including several different servers and connection media) to utilize to complete a connection to the network. Nor does Rosin teach or suggest a client system that dynamically connects to the network via the selected connection.

In response to Appellant's argument, the Patent Office respectfully submits that these features are taught in the cited area of Rosin reference. The abstract and summary, as well as figure 8 of Rosin describe an internet on-demand system for television that provides both internet

content and television programming as part of a coherent graphical user interface. Rosin provides a client-server system where the client has several available data stream connections. In this case, the server queries the client regarding its available data stream connections including telephone modems, cable modems, wireless telecommunications and digital satellite broadcasting, regarding its ability to detect embedded data in TV signals, in order to determine the most efficient delivery of different types of data through all of the available bandwidth connections for *both* directions of data flow (abstract; col. 3, lines 20-25). It is well known in the computer networking art that a server can be a client, and vice versa. Therefore, if the server can query the client regarding its available bandwidth, the client can do the same.

The combination of Brendel and Rosin teaches a client system with a GUI that allows the user to select which connection among several available connections. As cited above, Brendel teaches a standard web browser GUI that enables the initiation of a web browsing session on the web site associated with the URL entered or selected at the client system. Rosin teaches a GUI with selectable options for selecting server by which the client actually establishes a connection to the internet or TV. The combination of Brendel and Rosin allows the client to dynamically connect to the internet using available connection types.

Appellant concedes that there is no mention or consideration of historical data or the use of historical data along with connection history and current conditions to determine a best route for connecting to the network. The Patent Office respectfully disagrees.

The cited section of Brendel teaches the caching of IP addresses at a web browser after the address is utilized (col. 2, lines 29-35). Cached IP address, in this case is interpreted as

historical data that is used to determine available server for the client connection (col. 3, lines 30-61).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

ANB
September 13, 2004

Conferees

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